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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/552,837

08/21/2006

Ralph Beyer

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EXAMINER

CHEUNG, CHUN HOI

ART UNIT

PAPER NUMBER

3728

MAIL DATE

DELIVERY MODE

03/11/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/552,837	Applicant(s) BEYER ET AL.	
	Examiner CHUN CHEUNG	Art Unit 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-49 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 24-49 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/13/2005 and 08/21/2006</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 10/13/2006 and 08/21/2006 is being considered by the examiner.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 36-38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 36, the phrase "film which is self-adhesive in an overlap area and which welds on making contact, without additionally requiring an adhesive" is indefinite because it has not clear meaning as to whether the applicant is claiming a packaging with self-adhesive in an overlap area before welds on making contact or welding said waterproof covering film creates a self-adhesive feature. For the purpose of this office action, claim 36 is considered to be welding said waterproof covering film creates a self-adhesive feature.

Claims 37 and 38 recites the limitation "rib-like gripping edge" is confusing and does not disclose have any structural limitation to the claim.

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Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 46-49 are rejected under 35 U.S.C. 102(e) as being anticipated by Smith et al (7,041,353).

As to claim 46, Smith discloses a module (10) contained in a covering (12), with the module being protected in its entirety against water ingress (vapor barrier, column 13, line 58) by a waterproof covering (polymeric film, Column 3, line 55) that completely encases the module (10).

As to claim 47, the covering is permeable to water vapor (column 13, line 58).

As to method claim 48 and 49, the claims are anticipated by the method transporting and storage of the insulation element of Smith.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 24-30, 34-37, 39-40, 43, 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berdan (5,350,063) in view of Smith et al (7,041,353).

As to claim 24, Berdan discloses a package comprising modules (18) arranged side by side (Figure 5), each module (18) comprising a plurality of insulation elements (10, Column 2, lines 62-66) combined by a film covering (16), the modules being by wrapping elements to form a storage and transport unit, the modules being protected against water ingress by a waterproof covering (Polypropylene, 20, Column 3, lines 32-35). However, Berdan does not disclose the waterproof covering completely encasing

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the modules. Nevertheless, Smith discloses packaging with waterproof covering (polymeric film, Column 3, line 55) completely encasing the module (Figure 1).

It would have been obvious to a person having ordinary skill in the art at the time of the invention was made to modify the exterior wrap around waterproof covering of Berdan with completely encasing the article within as taught by Smith to prevent any water or water vapor to contaminate the article within the package

As to claim 25, Smith discloses the waterproof covering completely encloses the insulation elements (24, 26, Figure 1).

As to claim 26, Smith discloses waterproof coring is composed of a film (Column 3, line 55).

As to claim 27, Smith discloses film comprises polymeric (Column 3, line 55), which is materially equivalent to polypropylene.

As to claim 28, Smith discloses the waterproof covering film (polymeric material, vapor barrier, column 13, line 58), which is capable provide with water vapor diffusion resistance dependent on a relative humidity of a surrounding atmosphere.

As to claim 29, Berdan discloses the film covering is made of polyethylene film which is capable to provide the water-vapor diffusion resistance of 2-5 m diffusion-equivalent air-layer thickness and when the relative humidity is in the range from 60 to 80 %, the material has a water-vapor diffusion resistance of 1 m diffusion-equivalent air- layer thickness.

As to claim 30, Smith discloses the waterproof covering is composed of film (Column 3, line 55).

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As to claim 34, Berdan discloses the insulation elements are packaged under a compression ration of at least 4:1 (Column 2, lines 63-65).

As to claim 35, Smith discloses the waterproof covering is bonded in an overlap area (sealed, column 3, lines 54-62).

As to claim 36, Smith discloses the waterproof covering is composed of film which is seal in an overlap area without additional adhesive material (sealed, column 3, lines 54-62).

As to claim 37, as best understood, Smith discloses an excess portion of the waterproof covering projects outwards (Figure 1) to form a rib-like gripping edge which is capable to grip the module at the gripping edge.

As to claim 39, the package of Berdan as modified by Smith in claim 37 above, further discloses the excess portion, but does not disclose the excess portion as measured from a weld to an edge of the film is at least 5 cm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the package of Berdan so the distance between weld area to an edge of the film is at least 5 cm because the selection of the specific distance such as the distance as disclosed by Berdan or as claimed would have been an obvious matter of design choice inasmuch as the resultant structures will work equally well and inasmuch as applicant's specification does not state that using these specific distance as claimed solves any particular problem or yields any unexpected results.

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As to claim 40, Smith discloses the modules do not have a pallet and the modules are stacked and have a waterproof packaging (Figure 3), which the modules being held together by retainers (18).

As to claim 43, Smith discloses the waterproof covering is permeable to water vapor (vapor barrier, column 13, line 58).

As to claim 45, Berdan discloses each insulation element comprises a plurality of insulation panels (10).

11. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berdan (5,350,063) and Smith et al (7,041,353), further in view of Rieder et al (6,348,093).

As to claim 31, Berdan as discussed in claim 30 above, further discloses the waterproof covering is polypropylene film (Column 3, lines 35-36), but does not disclose said material comprising polyamide. However, Rieder discloses a packaging system with non-water soluble polymeric packaging material containing a plurality of fibers (Column 9, lines 43-57) comprise polyamide (Column 9, lines 57-58). It would have been obvious to a person having ordinary skill in the art at the time of the invention was made to modify the modules package of Berdan with fiber material comprising polyamide as taught by Rieder to strengthen the packaging with fiber material.

12. Claims 32-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berdan (5,350,063) and Smith et al (7,041,353), further in view of Teague et al (6,471,061).

As to claims 32 and 33, Berdan as discussed in claim 24 above, does not disclose said discloses at least two of the modules are arranged alternatively upright and lying flat or

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alternately upright to each other. However, Teague discloses a packaging system (20) containing packages which all of the packages are lying flat and offset relative to each other (Figures 1 and 2) which is equivalent to have interior packages arranged in different orientation such as upright position. It would have been obvious to a person having ordinary skill in the art at the time of the invention was made to modify the package system of Berdan with lying flat and alternatively offset relative to each other as taught by Teague to stack each packages into a large rectangular shape for easily storage and transport.

13. Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berdan (5,350,063) and Smith et al (7,041,353), further in view of Gresh (5,064,056).

As to claim 38, the package of Berdan as modify by Smith in claim 37 above, does not disclose the rib-like edge gripping edge is provided with opening spaced to allow the gripping edge to the grabbed. However, Gresh discloses a packaging system with top edge (13) having opening spaces (17, Figure 2) to be able to grab or hang said package. It would have been obvious to a person having ordinary skill in the art at the time of the invention was made to modify the modules package of Berdan with edge having openings as taught by Gresh to grab or hang said packaging by the end user.

14. Claims 41 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berdan (5,350,063) and Smith et al (7,041,353), further in view of Reinhardt (5,873,460).

As to claim 41 and 42, the package of Berdan as modify by Smith in claim 40 above, does not disclose an interposing layer is provided between layers of the modules as a

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lifting point for a fork lift, and said interposing layer comprises plastic. However, Reinhardt discloses an interposing layer (Spacer 10, layer between dry wall 12 in Figure 1) is provided between layers of the modules as a lifting point for a fork lift (Column 3, lines 23-27), and said interposing layer comprises plastic (High density polystyrene). It would have been obvious to a person having ordinary skill in the art at the time of the invention was made to modify the modules package of Berdan with interposing layer made of high density polystyrene as taught by Reinhardt to convenience move said packaging with fork lift by the end user.

15. Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berdan (5,350,063) and Smith et al (7,041,353), further in view of Rias (4,535,587).

As to claim 44, Berdan as discussed in claim 24, does not disclose each insulation element comprising an insulation roll. However, Rias discloses a package system for insulation element form with an insulation roll (Figures 1-3). It would have been obvious to a person having ordinary skill in the art at the time of the invention was made to modify the insulation pad of Berdan with insulation roll as taught by Rias to have same packaging with different shape and different way of insulation material to benefit the manufacturer.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 2,354,186 discloses an insulation package with multiple insulation pad vacuum and seal in a film package. U.S. Patent No. 3,246,443 discloses a foam cushion material packaging by force and heat seal at the end portion

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of the side. U.S. Patent No. 3,458,966 discloses an insulation package with multiple insulation pad vacuum and seal in a film package. U.S. Patent No. 3,521,742 discloses an insulation package with compressed material. U.S. Patent No. 4,555,017 discloses a bale package and package together with seal at the end portion of the package. U.S. Patent No. 6,021,890 discloses a roll packaging system with multiple layers of film material. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHUN CHEUNG whose telephone number is (571)270-5702. The examiner can normally be reached on Monday to Friday: 7:30AM~5:00AM.Alt Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571)272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Examiner, Art Unit 3728

/Luan K. Bui/
Primary Examiner, Art Unit 3728